

Washington County Land Use Authority Meeting
April 13, 2010
(Recording available)

The Washington County Land Use Authority Meeting was held on Tuesday, April 13, 2010, at the Washington County Administration Building, 197 E. Tabernacle, St. George, Utah. The meeting was convened at 1:30 p.m. by Chairman Stucki. Commissioners present: Debora Christopher, Doug Wilson, Kim Ford, Julie Cropper, Dave Everett and Rick Jones. Also present: Deon Goheen, Planning & Zoning Administrator; Rachelle Ehlert, Deputy Attorney; Kurt Gardner, Building Official; Todd Edwards, Public Works Engineer; John Willie, Senior Planner; and Darby Klungervik, Planning Secretary.

Excused: Joann Balen

Audience attendance: Mark Cox, Ken Anderson, Russell Gallian, Darrin LeFevre, Bob Mason.

Chairman Stucki led the audience in the Pledge of Allegiance and explained meeting protocol.

Item # 1. STAFF COMMENTS Review staff comments for each item listed below. Staff initiated.

Item #2. CONDITIONAL USE PERMIT EXTENSION Review extension on a Tower for Verizon Wireless at Big Mountain communications facility in Section 4, T38S, R16W, on Forest Service property near Enterprise. Connie Misket/Technology Associates International Corporation, agent.

The planner reported that the applicant could not attend and Ms. Misket indicated that the Forest Service is still working on their application. They had to wait more than a full year for that agency to even look at it because they have been so busy. Pamela Gilbert with the Dixie National Forest is now processing the application, which may be another 4 to 6 months out.

Motion was made by Commissioner Everett to recommend approval of the extension for the period of one (1) year for the Verizon Wireless Tower at Big Mountain communication facility, subject to a copy of the Forest Service permits being submitted for files.

Commissioner Cropper seconded the motion, with all six (6) commissioners voting aye.

Item #3. CONDITIONAL USE PERMIT EXTENSION Review extension to run a new transmission line from Central to the Middleton Substation and install a temporary line from the Middleton Substation to St. George Substation, fencing and expansion on the existing facility and changes to the Black Gulch to Diamond Valley line. Rocky Mountain Power/Project Manager Paul Henry, applicant.

The Planner said this will be the 3rd extension in 5 years. These types of uses for utilities are conditionally approved within the OSC & OST zone. The utility has received approval to expand the existing St. George Switchyard (SGSY) in the Red Hills Desert Reserve, building a 138 kV line from SGSY to Middleton Substation, and building a 138 kV double circuit line convertible

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to 345 kV (to replace the existing 138 kV line) from Red Butte Substation near Central, Utah to SGSY. They have installed a tortoise fence around the substations. Both UAMPS and PacifiCorp (Rocky Mtn. Power) are in need of this expansion project, so they have joined together in this effort. PacifiCorp (Rocky Mtn. Power) is amending their existing BLM ROW and Dixie National Forest special use permit to add facilities and increase capacity. The new 138 kV double circuit line will be built 25 feet west of and parallel to PacifiCorp's (Rocky Mtn. Power's) existing 138 kV line, which will be removed afterward. The applicant is in attendance to review their progress with the commissioners.

Mark Cox, Rocky Mountain Power representative, said the transmission line has been energized and all that is left on the Red Butte project is restoration and cleanup.

Motion was made by Commissioner Cropper to recommend approval of the extension for the period of one (1) year for the transmission line from Central to the Middleton Substation. Commissioner Ford seconded the motion, with all six (6) commissioners voting aye.

Mr. Cox showed a map of the realignment of the Black Gulch to Diamond Valley, which was approved in October of 2009. The right-of-way agent indicated they are trying to align the poles so they are less intrusive. The new poles will be approximately 20' higher and the property owners were told the lines may have to go where existing lines are. This alignment was in place prior to the development of Paradise Estates Subdivision.

Motion was made by Commissioner Cropper to recommend approval of the extension and revision on the Black Gulch to Diamond Valley line for the period of one (1) year. Commissioner Christopher seconded the motion, with all six (6) commissioners voting aye.

Item #4. CONDITIONAL USE PERMIT Request permission for the five (5) Zip Lines at Pah Tempe, within the OST 20 Zone, unincorporated area of Washington County... Ken Anderson, applicant

Commissioner Wilson declared a conflict of interest and stepped down from the podium.

The planner advised the commission on the items reviewed at staff meeting: 1) Revised Site Plan / 1 phase; 2) Engineers site review; 3) Geotechnical report; 4) Letter/agreement from power company/easement under their lines; 5) Fire Hydrant w/in 400' of Commercial Bldg & HV Fire District review; 6) Emergency hammer head turn around & Shuttle Van; 7) Sewer lateral/connection letter from ACSSD; 8) Letters of agreement on annexation (required from County Ordinance); 9) Grading/hillside ord. on ramp/walking area (no longer applicable); 10) Restrooms and Handicapped parking for upper facility; and 11) Address agreements with the WCWCD. All conditions were met or addressed adequately, which included the phone conversation with Hurricane City Manager Clark Fawcett, who indicated an e-mail on approval of location of a fire hydrant and addressing water issues was sent.

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Commissioner Ford inquired about the traffic concerns mentioned in the letter from Hurricane City and the Planner explained those concerns have already been approved by UDOT.

Todd Edwards, County Engineer, said he has been to this site and that although the access is not the greatest; UDOT has looked at this pretty heavily and decided it is okay and no traffic light is needed. He said not allowing left hand turns would force people to go right and then most of them would be u-turning, which would be even more of a hazard. Signage would not likely be possible, as UDOT does not like more signs than necessary. He explained that Enchanted WY is acceptable as a driveway, but as a dedicated road it would need to be brought up to County standards. Staff thought it was okay, as it is paved and wide enough for emergency vehicles. WCWCD shares this road, which is why the County wanted their approval. Mr. Edwards stated the County would like to see the fire hydrant moved to the other side of the road if possible because it barely meets the 400' requirement. The handicap access needs to have good signage, the second access should be very limited, and the upper level stalls should all be handicap accessible. He informed the commission that although the new walkway will not be subject to Washington County's hillside ordinance because it will just follow the natural terrain, it may be subject to LaVerkin's. It was also mentioned that Hurricane City is not pleased to provide services to this project because of the proposed annexation to LaVerkin.

The commission inquired about WCWCD owning the road and asked if they would need a liability waiver.

Russ Gallian, attorney for the applicant, addressed the easement issues. He said Washington County does not want this road dedicated. He then read a document supporting his claim that WCWCD acknowledges their right-of-way by their belief that it is a public road. He also explained that the fire hydrant has to stay where it is because Hurricane City will not allow it to be on the other side of the road because that is out of their jurisdiction. Mr. Gallian said they are doing the best they can and they are not in violation of any ordinance. He stated their funding is already in place and they are willing to annex into either community, though from a water standpoint Hurricane would be better. He said this is a nice project with nice amenities that will attract a lot of people. Zip lines are a lot of fun and this canyon is magical. The time line is to be open by June; all preliminaries for construction are prepared.

Ken Anderson, owner of Pah Tempe, said he has been there for twenty five (25) years. He brought Zip Line Tours master plan for marketing and it is very well done, created by the greatest professionals in zip lines. He said Phase one (1) will have eight (8) platforms. He explained the engineers on the project are Darrin LeFevre and Karl Rasmussen. Mr. LeFevre is present and available for any questions the commission may have.

The Chairman asked the applicant about fencing or security for the zip lines.

Mr. Anderson clarified that two (2) staff members chaperone each guest; no one will be alone. He said he will either hire night watchman or place cameras for security and the zip lines will be locked. He also explained that everyone will enter the main parking area and then staff will assist anyone who needs handicap access.

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There was more discussion about the fire hydrant location and it was determined that it met the requirements of the fire code.

Mr. Anderson was asked about his hours of operation and he said he will be operating during daylight hours and the Chairman informed him that his operating hours needed to be very specific and staff would need a copy. Mr. Anderson also noted that an emergency plan is required by the professional organization for zip lines.

Kurt Gardner, Building Official, informed the applicant that his handicap parking would need to be hard surfaced.

Facts/Findings:

- **The use complies with all applicable provisions of Washington County ordinances and is not out of compliance with any state or federal law to our knowledge**
- **The use is not detrimental to the public health, safety and welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity**
- **It will not cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, or other similar unreasonable risks**
- **It will not unreasonably interfere with the lawful use of surrounding property**
- **The use is consistent with the characteristics and purposes stated in the general plan**
- **The use is consistent with similar uses of the zone**
- **Traffic safety conditions are not adversely affected by the use**
- **Utility capacity is adequate**
- **Emergency access is adequate**
- **The location and design of parking both on site and off street is adequate**
- **A plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses is adequate**
- **Exterior lighting is adequate and does not unduly disturb the surrounding area**
- **Signage is adequate and in compliance with title 10, chapter 19 of the County Code**
- **Requirements for the management and maintenance of facilities is adequate**
- **Does not create a special need that cannot be met by existing facilities and/or organizations; the facility has a built in safety system, the employees will be certified and in compliance with the Association of Challenge Course Technology and the emergency access is set forth in the site plan**
- **The use does not result in a situation which will create a need for essential services which cannot be reasonably met by local service providers, including roads and access for emergency vehicles and residents; fire protection; police protection; schools and school busing; drinkable water; sewer; storm drainage; and garbage removal**

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Motion was made by Commissioner Christopher to recommend approval of the five (5) Zip Lines at Pah Tempe within the OST-20 zone, subject to the hours of operation and meeting ADA requirements for the handicapped parking, based on facts & findings. Commissioner Ford seconded the motion, with all five (5) commissioners voting aye.

Item # 5. PUBLIC HEARING. Open hearing for Washington County Land Use Authority on an amendment to the Residential Estates Zone, which is a housekeeping item to the Washington County Land Use (Zoning) Ordinance. County initiated.

The Chairman opened the public hearing at 2:19 p.m.

The commission will need to open a public hearing as referenced by State Code, whereas amending Washington County Land Use Ordinance requires a minimum ten days published notice and 24 hour posting of agenda before other public meetings and that requirement has been met.

Robert Mason asked if the deadline on this ordinance was April 13, 2010 and the Planner said, "Yes." Mr. Mason asked if his client will be subject to the new ordinance and the planner told him he will be.

The Planner explained when an ordinance amendment is approved the attorney then prepares an ordinance for the County Commission to adopt that then goes into effect.

Hearing closed at 2:24 p.m.

Item # 6. ORDINANCE AMENDMENT Consider approval on amendment to the Washington County Land Use (Zoning) Ordinance, Title 10, Chapter 25, Wind Energy Systems and Facilities. County initiated.

The planner said the commission should recall reviews on this ordinance at work meetings held throughout January, February, and March. Suggested corrections have been made to the Iron County Ordinance and consideration of the Washington County Commission concerns that there will be a proliferation of individual units for personal use. Mr. Gerald Sieren provided a copy of his recommendations for the County to adopt and the Commission reviewed each item, deleting several. This has been combined with the revised version of what was taken from the Iron County Ordinance on small wind energy systems. The commission reviewed the revised documentation and indicated they were ready to adopt the wind energy ordinance. The chairman made a statement at the October 9, 2009 meeting announcing the intent to implement the ordinance, which allows for a six (6) month moratorium on Wind Energy. The review period ended on April 9, 2010. The commission agreed at the previous meeting that with changes made this could go directly to the advertising process for a hearing on April 13th. This was properly advertised.

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After some discussion on the proposed ordinance the commission decided to make the following changes:

- On page three (3), remove paragraph 4 (b)
- On page eight (8) 5, change the distance to 1.25 miles to keep it consistent
- On page fourteen (14) 2, replace 2-5 years with up to 5 years

The Planning Commission discussed the reflectivity of the Wind Energy Systems surface and decided that it would be difficult to measure and they would research it and address the topic later if need be.

Facts/findings:

- **The ordinance is needed to meet a demand for the construction of alternate energy systems**
- **The commission tried to be reasonable while protecting the health, safety and welfare of the citizens of the county**
- **The commission reviewed ordinances of other communities, including the states and did the research necessary for such an ordinance**

Motion was made by Commissioner Everett to recommend adoption of the Land Use Ordinance pertaining to Wind Energy Systems and Facilities, based on the facts and findings, as amended. Commissioner Christopher seconded the motion, with all six (6) commissioners voting aye.

Item #7. STAFF DECISIONS. Review of decisions from the Land Use Authority Staff Meeting held on April 6, 2010. County initiated.

The staff meeting convened at 9:30 a.m. Staff Members Present: Deon Goheen, Planning & Zoning Administrator; Kurt Gardner, Building Official; Todd Edwards, County Engineer; Rachelle Ehlert, Deputy Civil Attorney; Darwin Hall, Ash Creek Special Service District Director; Tina Esplin, Washington County Water Conservancy District;; and Laurence Parker, Southwest Utah Public Health Department.

Excused: Ron Whitehead, Public Works Director and Paul Wright, Department of Environmental Quality

CONDITIONAL USE PERMIT EXTENSION:

A. Request extension on a single family dwelling within the A-20 zone on Smith's Mesa, with the total acreage being 150 acres. Rick Eddy/Zion Cliff Dwellers, LLC., applicant.

This is a 3rd extension and applicant previously met the requirements for the Conditional Use Permit by submitting a site plan, deeds of ownership, septic permit from the Southwest Utah Public Health Department (SUPHD), and quantity and quality on a private well. Single family dwellings are conditionally approved within the A-20 zone, with this property containing a total of 150 acres. The property is accessed from the Smith's Mesa Rd. through Virgin, Utah, then

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onto a County prescriptive use road, generally located on the upper Smith's Mesa. The site plan meets all setback requirements of 25' on all sides, rear and front. The building Official stated there would need to be further engineering on the structure to meet snow load/live load and the Wildland Urban Interface for fire protection would need to be addressed during the permitting process at the staff level. Once again, review of Robert Beers, SUPHD representative, previous statement that the septic permit becomes void after one year and the Director of the Ash Creek Special Service District (ACSSD) indicated that the applicant would need to meet with their board for approval. **No permit has been issued as yet, so the staff granted an extension of the Conditional Use for another year, whereas, the initial work that went into applying for the conditional use should be enough to keep the permit active, and with the stipulation that the septic is reviewed by the ACSSD and renewed by SUPHD.**

CONDITIONAL USE PERMITS:

A. Request permission for a 2nd family dwelling within the RA-5 zone, Blackridge Ranches-Phase 1, Lot 55, in the New Harmony area. Enessy & Laraine Ficklin, applicants.

The applicant meets the requirements for the 2nd dwelling by submitting a site plan, foundation plan, an approved Airr treatment system from the Ash Creek Special Service District and the Southwest Utah Public Health Department. The water is provided by the Mountain Springs Culinary Water Company. The 2nd dwelling is a manufactured home for a family member and would be approved seasonal in nature, due to .85 acre feet of water established by the subdivision CC&R's. Ash Creek Special Sewer District Manager indicated that he was in approval with the density requirements for this area, with the applicant having 5 acres and using the Airr Systems. The planner advised that 2nd dwellings are conditionally approved within the RA-5 zone. The property is accessed from Old Hwy 91 and 1500 South in the Blackridge Subdivision generally located southeast of New Harmony. The site plan meets 25' setback requirements on all sides, rear and front. The Wildland Urban Interface for fire protection would need to be addressed during the permitting process at the staff level. **The staff decided to grant approval of the Conditional Use Permit for the 2nd dwelling for a family member for the period of one (1) year.**

B. Request permission for an accessory dwelling (garage/bath) within the Old Spanish Trail Homesteads, 2 amended, lot 6A, in the Veyo area. Steve & Kate MacFarlane, applicant.

The applicant has requested an accessory dwelling (full bath) within a garage structure, which is located at 194 S 300 W (Volcano Dr), in Veyo, Utah. The applicant submitted a site plan and a floor plan will be reviewed by the building staff, with a file copy submitted for the planning file. The septic permit is approved for the main dwelling with 1 bedroom and is adequate to accommodate 3 more bedrooms. If there is an addition to the home verification on adequate septic will need to come from the Southwest Utah Public Health Department. This remodel of the garage is less than 900 square feet requirement for an accessory dwelling. **The Conditional Use Permit was approved for one (1) year, subject to review of the floor plan during the permit process by the Department of Building Safety and acquiring the initial septic permit for the file.**

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C. Request permission for an accessory dwelling (garage) within the RE-40.0 zone at Canyon Trails - Phase 2, lot 15, in Dammeron Valley. Ted & Cami Parker, applicants.

The applicant has requested an accessory dwelling within a garage structure, which is located at 1424 N. Canyon Trails Dr., in Dammeron Valley. The applicant submitted a site plan and a floor plan will be reviewed by the building staff, with a file copy submitted for the planning file. The septic permit is approved for the main dwelling and is adequate for the 1 bedroom added in the accessory dwelling, which was obtained from the Southwest Utah Public Health Department. This meets the criteria set forth for accessory dwelling units and the casita portion is less than 900 square feet. **The staff decided to grant approval of the Conditional Use Permit for the period of one (1) year.**

D. Request permission for a single family dwelling within the A-20 zone, Prince Lot Split #5, in the New Harmony area. Steve Persing, applicant and Tony West, agent.

The applicant meets the requirements for the Conditional Use Permit by submitting a site plan, deeds of ownership, septic permit from the Southwest Utah Public Health Department (SUPHD), and a culinary water use from the North Valley Water Company. Single family dwellings are conditionally approved within the A-20 zone, with this property containing a total of 20 acres. The property is accessed from the Old Hwy 144 to 900 East, then right on 800 North and left on 1400 East, generally located in the Red Butte area of Bumblebee Range. The site plan meets all setback requirements of 25' on all sides, rear and front. The Wildland Urban Interface for fire protection would need to be addressed during the permitting process at the staff level. Lawrance Parker, SUPHD representative, stated that the septic permit meets their requirement and the Director of the Ash Creek Special Service District (ACSSD) indicated that the applicant has met with their board for approval. The applicant decided to remove the shower from the bath in the barn, so they would not be using up their 2nd dwelling permit on this use. **The staff decided to grant approval of the Conditional Use Permit for a single family dwelling for the period of one (1) year.**

PLAN REVIEW

- A. Change Site Plan for the Diamond Valley Elementary School for a driveway easement and school bus parking in Diamond Valley. Mel Ashcroft, School District and Glen Carnahan, Alpha Engineering.

The applicant is in the process of purchasing an easement from the adjacent property owner, Kenneth Olson and Shauna Haskell, within the RE-40.0 zone in Diamond Valley, with the parcel being dried up many years ago when access was approved for the 13 acre Ivan-Jack property. The staff reviewed the preliminary plans for the parking lot and road access and any possible drainage issues. This will be reviewed as an extension to a Conditional Use Permit by planning staff when final plans are drawn and easement has been granted.

Item # 8. MINUTES Consider approval of the minutes of the regular planning commission and work meetings held on March 9 and 23, 2010.

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Motion was made by Commissioner Christopher to approve the minutes from March 9, 2010. Commissioner Wilson seconded the motion. Six (6) commissioners voted aye.

Motion was made by Commissioner Ford to approve the minutes from March 23, 2010. Commissioner Wilson seconded the motion. Six (6) commissioners voted aye.

Item # 9. COUNTY COMMISSION ACTION REVIEW Review of action taken by the County Commission on Planning Items. County initiated.

The Planner reviewed the action taken on Planning Items by the Washington County Commission on April 6, 2010, beginning at 4:00 p.m. :(a) Conditional use permit for an exception to height limitations on a 60' silo and to establish a batch plant at Snowfield rock products, which is an existing gravel crushing operation north of Pintura. Tom Walbom/Granite Construction Company was the applicant and it was approved by the County Commission based on the recommendations of the Planning Commission.

Item # 10. COMMISSION & STAFF REPORTS: General reporting on various topics. County initiated.

There being no further business at 4:20 p.m., Chairman Stucki adjourned the meeting.

Darby Klungervik, Planning Secretary